

Clerk
District Court

APR -4 2006

PROB 12B
(7-93)*United States District Court*For The Northern Mariana Islands
By _____
(Deputy Clerk)

for

*the Northern Mariana Islands***Report for Modifying the Conditions or Term of Supervision
with Consent of the Offender**
(Probation Form 49, Waiver of Hearings is Attached)Name of Offender: **Libo Wang**Case Number: **CR 01-00010-005**Name of Sentencing Judicial Officer: **Alex R. Munson**Date of Original Sentence: **August 14, 2002**Original Offense: **Conspiracy to Possess Methamphetamine with Intent to Distribute and Distribute
Methamphetamine, 21 U.S.C. §§ 841(a)(1) and 846**

Original Sentence: **18 months imprisonment followed by a four year term of supervised release with conditions to include: obey all federal, state, and local laws; not possess a firearm or other dangerous weapon; not use or possess illegal controlled substances; refrain from any alcoholic beverages; submit to one urinalysis test within 15 days of release from custody and to two more urinalysis thereafter; be assessed for substance abuse or alcohol abuse. If it is determined that she is in need of treatment, she shall participate in a substance abuse program approved by the U.S. Probation Office for treatment of narcotic addiction or drug or alcohol dependency, which will include testing for the detection of substance abuse. The defendant shall also make a payment for treatment at a rate to be determined by the U.S. Probation Office; obtain and maintain gainful employment; and pay a fine of \$500.**

Type of Supervision: **Supervised Release**Date Supervision Commenced: **July 4, 2004**Assistant U.S. Attorney: **Timothy E. Moran**Defense Attorney: **Stephen J. Nutting****PETITIONING THE COURT**☐

To extend the term of supervision _____ years, for a total term _____ years.

☒

To modify the conditions of supervision as follows:

- The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed eight tests per month, as directed by the probation officer.

Report for Modifying the
Conditions or Term of Supervision
with Consent of Offender
Page 2

On September 2, 2005, the Ninth Circuit, in *United States v. Stephens*, No. 04-50170, addressed 18 U.S.C. § 3583(d) supervised release and 18 U.S.C. § 3563(a)(5) probation mandatory testing conditions which requires that the district court determine the maximum number of mandatory drug tests. The Ninth Circuit held that because the statute requires the district court to determine the maximum number of drug tests under the mandatory condition, transferring this duty to the probation officer was an improper delegation of Article III judicial power.

To assist the Court in determining the appropriate number of drug tests, the undersigned officer has evaluated the Libo Wang's history of drug use, and the drug detection period of her drug of choice. As methamphetamine is considered one of the drugs of choice and has a normal detection period of four days or less, it is recommended that the maximum number of tests the court order per month be set at eight. This will allow for adequate time intervals between tests which will help facilitate the detection of use. It also provides for enough additional tests so that the pattern of testing will not be predictable to the offender.

To address the implications of *United States v. Stephens* Ninth Circuit No. 04-50170, it is respectfully requested that the Court modify Libo Wang's mandatory condition to set the maximum number of tests that she must submit. It is therefore recommended that the mandatory condition be modified as follows:

"The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed eight tests per month, as directed by the probation officer."

Ms. Wang has agreed to the above modification and attached is a Probation From 49 Waiver of Hearing to Modify Conditions of Probation/Supervised Release or Extend Term of Supervision with her consent.

Reviewed by:


ROSSANNA VILLAGOMEZ-AGUON

U.S. Probation Officer
Supervision Unit Leader

Date: *4/4/06*

Respectfully submitted,


By: 
MARGARITA WONENBERG

U.S. Probation Officer

Date: *4/4/06*

THE COURT ORDERS

- ☐ No Action
- ☐ The Extension of Supervision as Noted Above.
- ☒ The Modification of Conditions as Noted Above.
- ☐ Other


Signature of Judicial Officer

4-4-2006

Date

PROB 49
(3/89)

United States District Court

for


District of Northern Mariana Islands


**Waiver of Hearing to Modify Conditions
of Probation/Supervised Release or Extend Term of Supervision**

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release or to the proposed extension of my term of supervision:

That the defendant shall refrain from any unlawful use of a controlled substance, and shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed eight tests per month, as directed by the probation officer;

Witness: 
Margarita D.L.G. Wonenberg
U.S. Probation Officer

Signed: 
Libo Wang
Probationer or Supervised Releasee

2-22-06
Date